

October 20, 2005

Mary Cottrell, Secretary  
Department of Telecommunications and Energy  
One South Station, 2nd Floor  
Boston, MA 02110

RE: Boston Gas Company d/b/a KeySpan Energy Delivery New England, D.T.E 05-66

Dear Secretary Cottrell:

On September 16, 2005, the Boston Gas Company d/b/a KeySpan Energy Delivery New England ("KeySpan" or "Company") submitted its 2nd Annual Performance-Based Rate ("PBR") Adjustment for approval under G. L. c. 164, §94, and the Company's last rate case, *KeySpan*, D.T.E. 03-40 (2003). According to the Company, the proposal would increase revenues by \$7,194,813.00 or 2.29 percent. On October 11, 2005, the Department of Telecommunications and Energy ("Department") issued an order of notice and requested comments on the Company's filing. The Attorney General submits this letter as his comments on KeySpan's proposal.

In its PBR Filing, KeySpan has proposed for two ways to recover a cost related to a change in the way it calculates its gas-related bad debt expense. The Company first proposes to recover the gas-related bad debt expense as an exogenous cost under its PBR plan. Alternately, KeySpan seeks to recover through the Cost of Gas Adjustment ("CGA") rate as a change to its CGA formula.

These expenses do not qualify as an exogenous factor in KeySpan's favor. The increase in commodity price of gas that the Company claims drives the costs of bad debt expense higher are not unique to the local gas distribution industry. *See* Affidavit of Timothy Newhard ("Newhard Affidavit"), attached, ¶ 6. *See also* *NSTAR*, D.T.E. 03-47, pp. 32-33 (2003) (increased pension expense does not qualify as an exogenous cost because market volatility effects all industries, not just electric and gas). An increase in the costs of such a basic commodity as natural gas affects the economy in general, and so are reflected in the GDP-PI

formula.<sup>1</sup> Newhard Affidavit, ¶ 7 (GDP-PI formula includes a factor for energy costs). *See also Berkshire Gas Company*, D.T.E. 04-52, p.11-12 (2004) (tax changes allowing accelerated depreciation not limited to local gas distribution companies, so reflected in GDP-PI under PBR formula).

The increase in bad debt expense is not exogenous since it is within the control of the Company. Specifically, the Company through its accounts receivable accounting, billing, and recovery practices can substantially effect its level of bad debt expenses. In addition, the gas-related bad debt expense that the Company seeks to recover is not a distribution rate related expense. It is a function of the cost of fuel, so it is not subject to treatment as an exogenous cost under the PBR tariff, which adjusts the distribution portion of a customer's bill. The Department should reject the Company's attempt to classify the bad debt related expenses as "exogenous costs" under the PBR formula.

As for the Company's alternative approach to collect increased bad debt expense through the CGA, the Department already set KeySpan's CGA formula in D.T.E. 03-40.<sup>2</sup> KeySpan's request for a change in the way the Department calculates KeySpan's bad debt expense would effectively change its CGA formula. Changes to the formula of a reconciling tariff that increase rates must be subject to a hearing before the Department under G. L. c., 164, § 94, to set just and reasonable rates. *Consumers Organization For Fair Energy Equity, Inc. v. D.P.U.*, 368 Mass. 599, 606 (1975) ("[fuel tariff] clauses were designed precisely to avoid [§94] proceedings *except where changes were being proposed in the clauses themselves*) (emphasis added).

The Department sets the method for the recovery of bad debt expense in base rate cases where it has the opportunity to investigate not only the historic level of this expense, but also other important unique factors, such as the utility's collection practices, effectiveness of the collection efforts, and the accuracy and dependability of the billing and customer information systems. *KeySpan*, D.T.E. 03-40, pp. 86, 265-267 (Boston Gas booked incorrect level of bad debt write-offs during test year with new customer software system). The Department has already balanced company and customer interests when setting its rates under G. L. c. 194, §94, and now the Company wishes to tip that balance greatly in its favor. *See also* Newhard Affidavit, ¶¶ 7-8 (Company receives additional compensation under PBR formula and through increased sales volumes to offset increase in bad debt expense). Given these circumstances, the Department should reject the Company's request to recover additional gas-related bad debt costs

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<sup>1</sup> The Company's proposed definition of an exogenous cost is unworkable. Under its proposal, if the commodity cost of steel or plastic drives up the expense of gas mains and services the Company uses in its distribution system higher than the rate of GDP-PI, then the company could recover these expenses as "exogenous." In effect, the company would recover the expense twice: once through the inflation factor in its PBR and then once through an exogenous factor adjustment in its PBR.

<sup>2</sup> The Company did not appeal that decision, and the Department should not allow KeySpan to revise that decision now through a separate proceeding.

either as an exogenous cost or after a separate CGA tariff proceeding.<sup>3</sup> If the Department determines that a separate tariff filing to modify the CGA formula and increase the CGA rate is appropriate, due process requires that the customers in KeySpan's Boston Gas Company service territory receive public notice of this type of proceeding and an adjudicatory hearing. The Department should grant intervenors the opportunity fully to participate in such a hearing, including discovery and briefs.

The Department should adopt the recommendations in these comments in the best interest of customers.

Sincerely,

Alexander J. Cochis  
Assistant Attorney General

cc. Service list

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<sup>3</sup> As to the Company's pending CGA Factor request, the Department should only approve the method for calculating gas-related bad debt expense it ordered in D.T.E. 03-40.